K 1941/1

File No. O. Treasure Trove/41

Legal **DEPARTMENT**

A BRANCH

Subject:— Opinions under the Treasure Trove Act

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Office of the R.L.A.

174 silver coins of the Moghul period were found by two workmen beneath land belonging to the Crown. Enquiry was initiated by the Mamlatdar under the provisions of sections 5 to 9 of the Treasure Trove Act, but no private individual came forward to claim the treasure which in consequence was declared to be ownerless. That being so, the provisions of sections 10 and 12 come into play and the treasure has to be divided between the finders and Crown (as owner of soil) in the ratio of 3:1.

2— The question is how should the division be made.

Of the 174 coins 121 are required by Government for distribution among Museums, etc. It is suggested that those 121 coins should be acquired by Government. On the assumption that acquisition is necessary, or if Government desire that it should be resorted to, the view taken by the Deputy Secretary, Finance Department, is correct. As however Government is a party entitled to a fourth share of the treasure trove, it will not be absolutely necessary to acquire the coins by invoking the provisions of section 16. Action can more appropriately be taken under proviso (a) to section 12. Under this proviso the Mamlatdar who in Bombay is delegated with the powers of the Collector under the Treasure Trove Act can allot to either party the whole or more than his share of such treasure, on such party paying for the other party such sum of money as the Mamlatdar may fix as the equivalent of the share of such other party, or the excess so allotted, as the case may be. In the present case, the Mamladdar can allot 121 coins to Government and the remaining 5 3 to the finders. The value of 121 coins required by Government will doubtless be intrisically more than the value of the remaining 53 coins not required and both lots will, therefore, have to be separately assessed by the Mamlatdar. Out of the total value the finders will be entitled to three-fourths and the Government to one-fourth. If then 121 coins are allotted to Government

and only 53 to the finders, the latter will have to be compensated by Government by such sum of money as will make up their three-fourth share of the total value of the treasure.

Sd/- P. N. Moss

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Remembrancer of Legal Affairs.

U.R. to R.D.,No. 2496, dated the 19th March 1941.

PSM. 21/4.